

REMARKS

Claims 10-13 and 16-28 are pending. By this Preliminary Amendment, Claims 10, 17, 21-22 and 24 are amended, and Claims 58-60 are cancelled without prejudice or disclaimer. Because Claims 17 and 21-22 are amended to correct antecedent basis issues therein, and because Claims 10, 17 and 24 are amended merely to incorporate the subject matter recited by now-cancelled Claims 58-60, respectively, which is clearly illustrated in Figures 6 and 11 of the application as originally filed, Applicants respectfully submit that no new matter is presented herein.

Claim Objections

The March 5, 2009 Office Action objected to Claims 17 and 22 for informalities therein. Applicants have amended Claims 17 and 21-22 in a manner believed to be responsive to the objection. Accordingly, Applicants respectfully request withdrawal of the objection.

Claim Rejections – 35 U.S.C. §103

The March 5, 2009 Office Action rejected Claims 10-13, 17-22 and 58-59 under 35 U.S.C. §103(a) as being unpatentable over United States Patent Number 5,261,883 to Hood et al. (Hood); and Claims 16, 23-28 and 60 are rejected under 35 U.S.C. §103(a) as being unpatentable over Hoods, as applied to the claims above, and further in view of United States Patent Number 5,462,256 to Minick.

Applicants respectfully traverse the rejections for at least the following reason(s).

Claim 10 recites a cartridge cassette for use with a surgical irrigation pump including, among other features, a diaphragm that is disposed intermediate upstream and downstream valves and means for removably connecting the cartridge to the pump

and wherein the upstream and downstream valves directly oppose a common surface of the diaphragm.

Similarly, Claim 17 recites a cartridge cassette for use with a surgical irrigation pump including, among other features, a diaphragm that is disposed intermediate upstream and downstream valves and a laterally outwardly projecting tab on the pump and wherein the upstream and downstream valves directly oppose a common surface of the diaphragm.

Also, Claim 24 recites a cartridge cassette adapted to mate with a surgical irrigation pump including, among other features, a diaphragm that is disposed intermediate upstream and downstream valves and a mated position where the cassette mates with the pump, and wherein the upstream and downstream valves directly oppose a common surface of the diaphragm.

Accordingly, the invention recited by Claims 10, 17 and 24 recites the features of the upstream and downstream valves being parallel relative to each other ***wherein the upstream and downstream valves directly oppose a common surface of a diaphragm.*** See Figures 6 and 11 of the application for an exemplary illustration of the described feature.

The Office Action notes that Figure 7 of Hood illustrates an upstream valve (inlet valve) 70a that is parallel relative to a downstream valve (outlet valve) 130. However, Applicants note that the valves 70a ***and*** 130 do not ***directly*** oppose a common surface of the diaphragm 74a. Applicants note that while the outlet valve 130 appears to directly oppose a lower or bottom surface of the diaphragm 74a, the inlet valve 70a is not aligned with the diaphragm 74a and therefore *indirectly* opposes the diaphragm 74a,

but does not directly oppose the diaphragm 74a let alone directly oppose the same lower or bottom surface of the diaphragm 74a as does the outlet valve 130.

Applicants note the embodiment of Figure 5 of Hood also fails to teach or suggest the inlet valve 86' directly opposes a common surface of the diaphragm 74a as does the outlet valve 92'. That is, the inlet check valve 86' in the input chamber 72' side of the housing 102 directly opposes a right surface of the diaphragm 74a while the outlet check valve 92' in the output chamber 80' side of the housing 100 directly opposes a left, or different, surface of the diaphragm 74'.

Furthermore, Applicants note opening 106 communicates a vacuum inlet member 64 with the input chamber 72' and therefore is not a downstream valve as the opening 106 is an upstream valve as is the inlet check valve 86'.

Further, Applicants submit the opening 106 does not directly oppose the diaphragm 74' since the chamber 108 is located between the opening 106 and the diaphragm 74' as well as for the fact that the opening 106 directly opposes a portion of the housing 102.

Accordingly, Applicants respectfully submit that Hood fails to teach or suggest upstream and downstream valves that are parallel relative to each other **and** which directly oppose a common surface of a diaphragm, as is recited by Claims 10, 17 and 24.

Minick is cited merely for teaching a diaphragm having a graduated cross-section and therefore does not cure or otherwise overcome the above-described deficiency of Hood.

For the reason discussed above, Applicants respectfully submit that Hood and Minick, alone or in any combination thereof, do not teach or otherwise suggest the invention recited by Claims 10, 17 and 24.

Therefore, Applicants respectfully submit that Claims 10, 17 and 24 are not rendered obvious in view of Hood or the combination of Hood and Minick and should therefore be deemed allowable.

Claims 11-13 and 16 depend from Claim 10; Claims 18-23 depend from Claim 17; and 25-28 depend from Claim 24. It is respectfully submitted that these dependent claims be deemed allowable for at least the same reason(s) Claims 10, 17 and 24, respectively, are allowable as well as for the additional subject matter recited therein.

Withdrawal of the rejections is respectfully requested.

Conclusion

Prompt and favorable examination on the merits is respectfully requested.

In particular, reconsideration of the application, withdrawal of the outstanding objection and rejections, allowance of Claims 10-13 and 16-28, and the prompt issuance of a Notice of Allowability is respectfully requested.

Should the Examiner believe anything further is desirable in order to place this application in better condition for allowance, the Examiner is requested to contact the undersigned at the telephone number listed below.

In the event this paper is not considered to be timely filed, the Applicants respectfully petition for an appropriate extension of time. Any fees for such an extension, together with any additional fees that may be due with respect to this paper, may be charged to counsel's Deposit Account No. 01-2300, **referencing Attorney Dkt. No. 029714.00027.**

Respectfully submitted,


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